

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KARIM MAEM ALSAEDI,

Defendant-Appellant.

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UNPUBLISHED

March 2, 2006

No. 257367

Eaton Circuit Court

LC No. 03-020316-FC

Before: Cooper, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Defendant appeals by right his sentences for two counts of armed robbery, MCL 750.529. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court sentenced defendant to concurrent terms of fifteen to thirty years and eleven years, three months to twenty years for his armed robbery convictions, and a consecutive term of two years for possession of a firearm during the commission of a felony, MCL 750.227b.

Defendant argues that he is entitled to resentencing because the trial court scored the sentence guidelines based on facts that were not found beyond a reasonable doubt by the jury, relying on *Apprendi v New Jersey*, 530 US 466; 120 S Ct 2348; 147 L Ed 2d 435 (2000) and *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004). Defendant contends that the jury did not find: (a) that he pointed a firearm at a victim, the evidence required to score Offense Variable (OV) 1 at fifteen points<sup>1</sup>; (b) that he moved a victim to a place of greater danger or held a victim captive beyond the time necessary to commit the offense, the evidence required to score OV 8 at fifteen points<sup>2</sup>; or (c) that he committed the charged offenses as part of a pattern of felonious activity involving three or more crimes against a person, the evidence required to score OV 13 at twenty-five points.<sup>3</sup>

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<sup>1</sup> This variable addresses the aggravated use of a weapon. MCL 777.31(1)(c).

<sup>2</sup> This variable addresses whether victim asportation or captivity occurred. MCL 777.38(1)(a).

<sup>3</sup> This variable addresses whether the offense was part of a continuing pattern of criminal behavior. MCL 777.43(1)(b).

We affirm defendant's sentences. *Blakely, supra*, does not apply to Michigan's system of indeterminate sentencing. *People v Claypool*, 470 Mich 715, 730 n 14; 684 NW2d 278 (2004). We are bound by *Claypool, supra*. *People v Drohan*, 264 Mich App 77, 89 n 4; 689 NW2d 750 (2004), lv gtd in part 472 Mich 881 (2005).<sup>4</sup>

Further, defendant failed to preserve his challenge to the scoring of the sentencing guidelines. MCL 769.34(10); *People v Kimble*, 470 Mich 305, 309; 684 NW2d 689 (2004). Our review is limited to plain error affecting defendant's substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). The victims' testimony regarding defendant's display of a gun, a victim's testimony that defendant moved her to a back room, and the statement in the presentence report that defendant was charged with committing eight armed robberies within ten months in 2003 supported the trial court's scoring of OV 1, OV 8, and OV 13. We affirm those scoring decisions. *People v Hornsby*, 251 Mich App 462, 468; 650 NW2d 700 (2002). No plain error occurred. *Carines, supra*.

We affirm.

/s/ Jessica R. Cooper  
/s/ Kathleen Jansen  
/s/ Jane E. Markey

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<sup>4</sup> Our Supreme Court will consider in *Drohan, supra*, whether *Blakely, supra*, and *United States v Booker*, 543 US 220; 125 S Ct 738; 160 L Ed 2d 621 (2005), apply to Michigan's sentencing scheme.